

## Startup Wars® Terms of Service

*Last Updated August 12th, 2022*

Welcome to Startup Wars®!

Thanks for using Startup Wars® (including its mobile application, website, web-based applications, and any other tools, products, or services that link to or reference these Terms) (collectively, the “Services”). The Services are provided by STARTUP WARS, INC. (“Startup Wars,” “SUW”, “we,” “our,” or “us”), located at **A Registered Agent, Inc. 8 The Green, STE A Dover , DE 19901**. By using the Services, you are agreeing to these Terms of Service (“Terms”). Please read them carefully. The Services are very diverse, so sometimes additional terms or product requirements may apply. If additional terms or conditions are available with or applicable to the relevant Services, then those additional terms become part of your agreement with us if you use those Services. By accessing or using the Services, you intend and agree to be legally bound by these Terms. You may wish to print or save a local copy of the Terms for your records.

YOU ACKNOWLEDGE AND AGREE THAT THESE TERMS OF SERVICE LIMIT OUR LIABILITY AND THAT YOU ARE RELEASING US FROM VARIOUS CLAIMS IN SECTION 9 BELOW. THESE TERMS ALSO CONTAIN A BINDING ARBITRATION PROVISION IN SECTION 14 THAT AFFECT YOUR RIGHTS UNDER THESE TERMS WITH RESPECT TO THE SERVICES.

**FERPA Compliance for Student Users:** For users who are students at educational institutions subject to the Family Educational Rights and Privacy Act (FERPA), we handle your data in accordance with FERPA requirements. Specifically:

- We act as a “school official” with a legitimate educational interest in student data as defined by FERPA
- We collect, use, maintain and share student data only for the purposes authorized by the educational institution
- We remain under the direct control of educational institutions regarding the use and maintenance of student records
- We do not disclose student data to third parties unless specifically authorized by FERPA and/or the educational institution
- We comply with all additional requirements specified in our agreements with educational institutions, including any Student Data Privacy Agreement (SDPA/NDPA)

For all other users not subject to FERPA, the data terms in the remainder of this agreement apply.

### **1. Using the Services**

You must follow any policies made available to you within the Services if you choose to use the Services.

Don’t misuse the Services. For example, don’t interfere with the Services, try to access them using a method other than the interfaces and the instructions that we provide, or extensively or automatically copy any content from the Services (in other words, no scraping). You may use the Services only for your personal use and as permitted by law, including applicable export and re-export control laws and

regulations. We may suspend or stop providing the Services to you, with or without notice, if you do not comply with our terms or policies, if we are investigating suspected misconduct, or for any other reason.

Using the Services does not give you ownership of any intellectual property rights in the Services or the content you access through them ("Content"). You may not use Content, except as permitted by its owner or as otherwise permitted by law. These Terms do not grant you the right to use any branding or logos used in the Services, including the Startup Wars® or Startup Wars names and logos. Don't remove, obscure, or alter any legal notices displayed in or along with the Services.

The Services may display some Content that is not our own, such as Content belonging to our advertisers or sponsors, other third parties, you, or other users (collectively, "Third-Party Content"). We are not responsible for, and you waive all of our liability with respect to, Third-Party Content. Third-Party Content is the sole responsibility of the individual or entity that makes it available to you via the Services. We may review Third-Party Content to determine whether it is illegal or violates our policies, and we may remove or refuse to provide Third-Party Content that we believe violates our policies or the law. But we do not generally review Third-Party Content beforehand, and we are not obligated to do so.

In connection with your use of the Services, we may send you service announcements, administrative messages, and other information. By using the Services, you consent to receiving in-app messages (e.g., push and local notifications), email messages, text messages (i.e., SMS and/or MMS communications) and/or telephone calls, including to your wireless telephone number(s), from us in connection with the Services, including text messages and/or telephone calls that are automatically dialed and/or include pre-recorded messages. You may opt out of some of those communications, for example, by clicking on the "unsubscribe" link in marketing emails or decline push notifications. Please be aware that there may be a brief period before we are able to process your opt-out.

The Services (a game) may provide you with scenarios similar to owning your own business; however, you acknowledge that this is indeed a game and much of the content is fictional. We make no warranties about the content, the quality of education you will receive from gameplay, or any other warranties of any kind.

## **2. Your Startup Wars® Account**

You will need to create an account in order to use the Services. You agree that all registration information you give us will be accurate and current. If your account has been assigned to you by an administrator, such as your employer or educational institution, different or additional terms may apply and your administrator may be able to access or disable your account. You will timely notify us of any changes to any of the foregoing information. You are responsible for controlling access to any PCs, mobile devices, or other end points that you allow to store your Services password, or on which you enable a "Remember Me" or similar functionality ("Activated Device"). Accordingly, you agree that you will be solely responsible for all activities that occur under your Services accounts, including the activities of any individual with whom you share your Services account or an Activated Device.

To protect your account, keep your password confidential. You are responsible for the activity that happens on or through your account. If you learn of any unauthorized use of your password, please reset your password and contact us at [hello@startupwars.com](mailto:hello@startupwars.com).

### **3. Privacy and Feedback**

Our [Privacy Policy](#) explains how we treat your personal information and protect your privacy when you use the Services. By using the Services, you agree that we can collect, use, and share data from you as described in our Privacy Policy. We are not responsible for any information or Content that you submit or make available to other users via your use of the Services, and you assume all privacy, security, and other risks associated with providing any information, including personally identifiable information, to other users of the Service.

If you submit feedback or suggestions to us about the Services (whether through the Services or any other medium or method of communication), such as suggestions to improve the Services or responses to surveys, you agree that you have no obligation to do so, that you do so voluntarily, and that we may use your feedback or suggestions without obligation to you.

### **4. Data That You Submit**

You represent and warrant that you have all rights, permissions, and consents necessary to provide any information that you provide to us for use in the Services (collectively, "Your Data"). You retain ownership of any intellectual property rights that you hold in Your Data. In short, what belongs to you stays yours.

When you use the Services, you give us (and those we work with) a perpetual, irrevocable, transferable, sublicensable, royalty-free, worldwide license: to use, host, store, reproduce, modify, and create derivative works (such as those resulting from translations, adaptations or other changes we make so that Your Data works better with the Services), communicate, and distribute Your Data as configured by you through the Services; and also to create marketing research or industry benchmark reports, or other summaries or analyses of how you and other users use the Services (collectively, "Reports").

The rights you grant to us in Your Data are for the limited purpose of providing the Services and debugging or improving the Services. These rights continue even if you stop using the Services. Make sure you have the necessary rights to grant us this license.

We own all rights, title, and interest in and to the Reports, and may use and share the Reports for any business purpose.

You may use the Services only for lawful purposes and in accordance with these Terms. You agree that you will not use the Services:

- In any way that violates applicable federal, state, or local law or regulation (including, without limitation, any laws regarding the exporting of data or software to and from the United States) law or any third-party's rights;
- To submit or transmit excessive or unsolicited commercial messages or spam any users;

- To impersonate or attempt to impersonate us, our employees, another user or any other person or entity (including, without limitation, by using email addresses or screen names associated with any of the foregoing);
- To submit malicious content or viruses;
- To solicit other people’s login information, credit card numbers, or other sensitive information;
- To harass or bully other users;
- To post content that is hate speech, threatening or pornographic, that incites violence or that contains nudity or graphic or gratuitous violence; or
- To engage in any other conduct that restricts or inhibits anyone’s use or enjoyment of the Services, or which, as determined by us in our sole discretion, may harm us or users of the Services or expose us or them to any liability.

## **5. Intellectual Property Protection**

As we ask others to respect our intellectual property rights, we respect the intellectual property rights of others, and require our users and customers to do so. If you are a copyright owner or its agent and believe that any Content infringes upon your copyrights, you may submit a notification under the Digital Millennium Copyright Act (“DMCA”) by providing our Copyright Agent (the “Designated Agent”) with the following information in writing (see 17 U.S.C § 512(c)(3) for further detail):

- Identification of the work or material being infringed;
- Identification of the material that is claimed to be infringing, including its location, with sufficient detail so that we are capable of finding it and verifying its existence;
- Contact information for the notifying party (the “Notifying Party”), including name, address, telephone number, and email address;
- A statement that the Notifying Party has a good faith belief that the material is not authorized by the copyright owner, its agent or law;
- A statement made under penalty of perjury that the information provided in the notice is accurate and that the Notifying Party is authorized to make the complaint on behalf of the copyright owner; and
- A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed.

Please also note that the information provided in a notice of copyright infringement may be forwarded to the user who posted the allegedly infringing Content. After removing Content in response to a valid DMCA notice, we will notify the user responsible for the allegedly infringing Content that we have removed or disabled access to the Content. We will terminate, under appropriate circumstances, users who are repeat copyright infringers, and we reserve the right, in our sole discretion, to terminate any user for actual or apparent copyright infringement.

If you believe you are the wrongful subject of a DMCA notification, you may file a counter-notification with us by providing the following information to the Designated Agent at the address below:

- The specific URLs of material that we have removed or to which we have disabled access;
- Your name, address, telephone number, and email address;

- A statement that you consent to the jurisdiction of U.S. District Court for the Eastern District of Pennsylvania, and that you will accept service of process from the person who provided the original DMCA notification or an agent of such person;
- The following statement: "I swear, under penalty of perjury, that I have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled."; and
- Your signature.

Upon receipt of a valid counter-notification, we will forward it to the Notifying Party who submitted the original DMCA notification. The original Notifying Party (or the copyright holder the Notifying Party represents) will then have ten (10) days to notify us that he, she or it has filed legal action relating to the allegedly infringing material. If we do not receive any such notification within ten (10) days, we may restore the Content to the Services.

The contact information for our Designated Agent is:

**A Registered Agent, Inc. 8 The Green, STE A Dover , DE 19901.**

[hello@startupwars.com](mailto:hello@startupwars.com)

If you believe that any of your intellectual property rights other than copyrights have been infringed, please email us at [hello@startupwars.com](mailto:hello@startupwars.com). We reserve the right, in our sole and absolute discretion, to suspend or terminate any user who infringes the intellectual property rights of STARTUP WARS, INC. or others, and/or to remove, delete, edit or disable access to such person's Content. You agree that we have no liability for any action taken under this Section.

## **6. About Software in the Services**

The Services may enable you to access software running on our (or our vendors') servers (collectively, "Software"). You agree that we retain the ownership of all rights, title, and interest in and to the Software. STARTUP WARS, INC. gives you a personal, non-commercial, worldwide, royalty-free, non-assignable, and non-exclusive license to use the Software to access the Services. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by us, in the manner permitted by these Terms. You may not copy, modify, distribute, sell, or lease any part of the Services or Software, nor may you reverse engineer or attempt to extract the source code of the Services or Software, unless laws prohibit those restrictions or you have our express written permission.

There may be software programs contained within certain Software that have been licensed to us by third parties. The term "Software" as used herein shall include this third-party software except where the term "Software" is used in the context of our ownership. The same terms and conditions, including all limitations and restrictions, set forth in these Terms apply to each third-party software program contained in the Software. You acknowledge and agree that any third-party components are owned by their applicable licensors. We do not make any representations or warranties about the operation or availability of such third-party software. Neither we, nor our licensors, shall be liable for any unavailability or removal of such third-party software. We are not responsible for any communications to or from such licensors, or for the collection or use of information by such licensors. You consent to the communications enabled and/or performed by such third-party software, including automatic updating

of the third-party software without further notice. You agree that such third-party software licensors are intended third-party beneficiaries under these Terms.

Some of the Software may contain open source software. Open source software contained within the Software is subject to additional terms and conditions. To the extent there is any conflict between the terms of these Terms and the terms of an open source software license, the terms of the open source software license will apply solely as to that open source software.

## **7. Third Party Sites**

If the Services contain links or references to other sites and resources provided by third parties, those links or references are provided for your convenience only. We have no control over the contents of those sites or resources, and we accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third party sites or resources linked to or referred to in the Services, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

## **8. Modifying and Terminating the Services**

We are constantly changing and improving the Services. We may add or remove functionalities or features, start charging fees for all or certain features of the Services, and/or suspend or stop all or any portion of the Services altogether, at any time, without any notice or liability.

You can stop using the Services at any time, although we'll be sorry to see you go. We may also stop providing Services to you, or add or create new limits to the Services, at any time. Even after your rights under these Terms are terminated, all provisions of these Terms which by their nature should survive, will survive, including, without limitation, ownership provisions, warranty disclaimers, indemnification obligations, and limitations of liability.

## **9. Our Warranties and Disclaimers**

OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS, NEITHER Startup Wars NOR ITS LICENSORS, SUPPLIERS, OR DISTRIBUTORS MAKE ANY SPECIFIC PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE SPECIFIC FUNCTIONS OF THE SERVICES, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE ALSO DO NOT MAKE ANY WARRANTIES OR COMMITMENT RELATING TO NON-INFRINGEMENT, FREEDOM FROM VIRUSES OR OTHER HARMFUL CODE, OR ERROR-FREE OR UNINTERRUPTED OPERATIONS. WE PROVIDE THE SERVICES "AS-IS."

SOME JURISDICTIONS PROVIDE FOR CERTAIN IMPLIED WARRANTIES, LIKE THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, WE DISCLAIM ALL IMPLIED WARRANTIES.

YOU AND YOUR HEIRS, SUCCESSORS, AND ASSIGNS HEREBY FOREVER IRREVOCABLY RELEASE, DISCHARGE, AND HOLD HARMLESS US, OUR AFFILIATES, AND OUR AND THEIR SUCCESSORS AND ASSIGNS, AND OUR AND THEIR OFFICERS, DIRECTORS, MEMBERS, MANAGERS, EMPLOYEES, AND AGENTS (COLLECTIVELY, "RELEASED PARTIES") FROM, AND AGREE NOT TO SUE ANY RELEASED PARTY FOR, ANY LIABILITIES, CLAIMS, OBLIGATIONS, SUITS, ACTIONS, DEMANDS, EXPENSES, AND DAMAGES WHATSOEVER (COLLECTIVELY, "LIABILITIES") THAT YOU MAY HAVE AGAINST ANY RELEASED PARTY WHETHER EXISTING NOW OR IN THE FUTURE, WHETHER KNOWN OR UNKNOWN, ARISING OUT OF OR IN CONNECTION WITH YOUR OR A THIRD PARTY'S CONDUCT RELATED TO USE OF THE SERVICES. YOU UNDERSTAND AND ACKNOWLEDGE THAT THE FOREGOING SENTENCE RELEASES AND DISCHARGES ALL LIABILITIES, WHETHER OR NOT THEY ARE CURRENTLY KNOWN TO YOU, AND YOU WAIVE YOUR RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542. YOU UNDERSTAND THE MEANING OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH READS AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY." BY AGREEING TO THESE TERMS AND THIS WAIVER, YOU ASSUME ALL RISK ARISING FROM YET UNKNOWN CLAIMS.

#### **10. Liability for the Services**

EXCEPT TO THE EXTENT PROHIBITED BY LAW, THE RELEASED PARTIES AND THEIR LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES.

EXCEPT TO THE EXTENT PROHIBITED BY LAW, THE TOTAL LIABILITY OF THE RELEASED PARTIES AND THEIR LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, FOR ANY AND ALL CLAIMS UNDER THESE TERMS OR RELATING TO YOUR USE OF THE SERVICES, INCLUDING FOR ANY IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT YOU PAID US TO USE THE SERVICES (OR, IF WE CHOOSE, TO SUPPLY YOU THE SERVICES AGAIN).

IN ALL CASES RELATING TO PROVIDING YOU THE SERVICES, THE RELEASED PARTIES AND THEIR LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE OR THAT IS DUE TO EVENTS OUTSIDE OF OUR REASONABLE CONTROL, SUCH AS WARS, CRIMINAL ACTIVITIES, STORMS, NATURAL DISASTERS, ACTS OF GOVERNMENT, SUPPLY INTERRUPTIONS, OR TELECOMMUNICATION OR INTERNET FAILURES.

#### **11. Business/Employer Uses of the Services**

If you are using the Services on behalf of an organization, business or employer, you are accepting these Terms on their behalf, and that organization, business or employer agrees to be bound by these Terms.

#### **12. Indemnification**

You hereby agree to indemnify, defend, and hold harmless Startup Wars, its affiliated companies, and its and their predecessors, successors, and assigns, and its and their respective directors, officers, members, managers, employees, agents, representatives, partners, and contractors from and against all claims,

losses, expenses, damages and costs (including, but not limited to, reasonable attorneys' fees), resulting from or arising out of your actual or alleged breach of these Terms, any Content you provide through the Services, or your use or misuse of the Services. However, you will not be responsible for claims, damages, and costs which are found by a court of competent jurisdiction to have arisen solely from our wrongful acts or omissions.

### **13. About these Terms**

We may modify these Terms or any additional terms that apply to the Services for any reason (for example, to reflect changes to the law or changes to the Services). You should review these Terms regularly, including the “Last Updated” date at the beginning of these Terms. We’ll use reasonable efforts to give you notice of these modifications, such as updating the “Last Updated” date at the beginning of these Terms or posting notice of modifications to these Terms on this web page, through the Services, or via email. By continuing to use the Services after we make these modifications, you agree that you will be subject to the modified Terms. If you do not agree to the modified Terms for any reason, you should discontinue your use of the Services.

If there is a conflict between these Terms and any additional terms for the Services, the additional terms will control for that conflict.

These Terms control the relationship between Startup Wars and you with respect to your use of the Services. They do not create any third-party beneficiary rights, except as described in Section 6 with respect to third-party software licensors. If you do not comply with these Terms, and we don’t take action right away, this doesn’t mean that we are giving up any rights that we may have (such as taking action in the future). If it turns out that a particular term is not enforceable, this will not affect any other terms.

The laws of the United States and the Commonwealth of Pennsylvania, excluding Pennsylvania’s conflict of laws rules, will apply to any disputes arising out of or relating to these Terms or the Services. You may not assign or delegate your rights or obligations relating to these Terms or your account for the Services without our prior written consent. We may assign these Terms or assign or delegate any of our rights or obligations at any time, with or without notice.

For information about how to contact Startup Wars, please visit our contact page at [www.startupwars.com](http://www.startupwars.com) or email us at [hello@startupwars.com](mailto:hello@startupwars.com).

### **14. Binding Arbitration**

Without limiting your waiver in Section 9, you agree to the following:

**a. Purpose.** Any and all Disputes (as defined below) involving you and Startup Wars and relating to the Services, the Software or these Terms will be resolved through individual arbitration. In arbitration, there is no judge or jury and there is less discovery and appellate review than in court. This Section 14 (the “Arbitration Provision”) shall be broadly interpreted. Notwithstanding anything to the contrary in these Terms, this Section 14 does not apply to an action by either party to enjoin the infringement or misuse of its intellectual property rights, including copyright, trademark, patent or trade secret rights.

**b. Definitions.** The term “Dispute” means any claim or controversy related to the Services, the Software or these Terms, including but not limited to any and all: (1) claims for relief and theories of liability, whether based in contract, tort, fraud, negligence, statute, regulation, ordinance, or otherwise; (2) claims that arose before your acceptance of these Terms or any prior agreement; (3) claims that arise after the expiration or termination of these Terms; and (4) claims that are currently the subject of purported class action litigation in which you are not a member of a certified class. As used in this Arbitration Provision, “Startup Wars” means Startup Wars, INC and any of its predecessors, successors, assigns, parents, subsidiaries and affiliated companies and each of their respective officers, directors, members, managers, employees and agents, and “you” means you and any users or beneficiaries of your access to the Services or the Software.

**c. Initiation of Arbitration Proceeding/Selection of Arbitrator.** The party initiating the arbitration proceeding may open a case with JAMS, formerly Judicial Arbitration and Mediation Services, Inc., by visiting its website ([www.jamsadr.com](http://www.jamsadr.com)) or calling its toll-free number (1-800-352-5267).

**d. Right to Sue in Small Claims Court.** Notwithstanding anything in this Arbitration Provision to the contrary, either you or Startup Wars may bring an individual action in a small claims court in the area where you access the Services if the claim is not aggregated with the claim of any other person and if the amount in controversy is properly within the jurisdiction of the small claims court.

**e. Arbitration Procedures.** This Arbitration Provision shall be governed by the Federal Arbitration Act. Arbitrations shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures (the “JAMS Rules”) as modified by the version of this Arbitration Provision that is in effect when you notify Startup Wars about your Dispute. You can obtain the JAMS Rules from the JAMS by visiting its website ([www.jamsadr.com](http://www.jamsadr.com)) or calling its toll-free number (1-800-352-5267). If there is a conflict between this Arbitration Provision and the rest of these Terms, this Arbitration Provision shall govern. If there is a conflict between this Arbitration Provision and the JAMS rules, this Arbitration Provision shall govern. If JAMS will not administer a proceeding under this Arbitration Provision as written, the parties shall agree on a substitute arbitration organization. If the parties cannot agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint an arbitration organization that will administer a proceeding under this Arbitration Provision as written applying the JAMS Rules. A single arbitrator will resolve the Dispute. Unless you and Startup Wars agree otherwise, any arbitration hearing will take place in Philadelphia, Pennsylvania. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect account information and other confidential or proprietary information. The arbitrator shall issue a reasoned written decision that explains the arbitrator’s essential findings and conclusions. The arbitrator’s award may be entered in any court having jurisdiction over the parties only if necessary for purposes of enforcing the arbitrator’s award. An arbitrator’s award that has been fully satisfied shall not be entered in any court.

**f. Waiver of Class Actions and Collective Relief.** THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED OR LITIGATED ON A CLASS ACTION, JOINT OR CONSOLIDATED BASIS OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC (SUCH AS A PRIVATE ATTORNEY GENERAL), OTHER USERS, OR OTHER PERSONS. THE ARBITRATOR MAY AWARD RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT INDIVIDUAL PARTY’S CLAIM. THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON’S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING.

**g. Arbitration Fees and Costs.** If your claim seeks more than \$75,000 in the aggregate, the payment of the JAMS's fees and costs will be governed by the JAMS Rules. If your claims seek less than \$75,000 in the aggregate, the payment of the JAMS's fees and costs will be Startup Wars's responsibility. However, if the arbitrator finds that your Dispute was frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), the payment of the JAMS's fees and costs shall be governed by the JAMS Rules and you shall reimburse Startup Wars for all fees and costs that were your obligation to pay under the JAMS Rules. You may hire an attorney to represent you in arbitration. You are responsible for your attorneys' fees and additional costs and may only recover your attorneys' fees and costs in the arbitration to the extent that you could in court if the arbitration is decided in your favor. Notwithstanding anything in this Arbitration Provision to the contrary, Startup Wars will pay all fees and costs that it is required by law to pay.

**h. Severability and Waiver of Jury Trial.** If any part of subsection (f) of this Arbitration Provision is found to be illegal or unenforceable, the entire Arbitration provision will be unenforceable and the Dispute will be decided by a court. WHETHER IN COURT OR IN ARBITRATION, YOU AND Startup Wars AGREE TO WAIVE THE RIGHT TO A TRIAL BY JURY TO THE FULLEST EXTENT ALLOWED BY LAW. If any other clause in this Arbitration Provision is found to be illegal or unenforceable, that clause will be severed from this Arbitration Provision and the remainder of this Arbitration Provision will be given full force and effect.

**i. Continuation.** This Arbitration Provision will survive the termination or expiration of these Terms.

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\* and its suppliers and may be covered by U.S. and Foreign Patents,

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